CF0000147290

(2)

Division Bench (Civil)

IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

M.P.No. 951 of 1993

Petitioner: Murlidhar,
aged about 58 years,
son of Shri Lachhiram Sindhi,
resident of Champa,
Tahsil Champa,
District Bilaspur, M.P.

versus

Respondents:
1. The State of M.P.,
through, Secretary,
Revenue Department,
Vallabh Bhawan, Bhopal.
2. Additional Commissioner,
Bilaspur Commissionary,
Bilaspur.
3. Additional Collector, Korba,
District Bilaspur.
4. Tahsildar, Tahsil Champa,
District Bilaspur.

Filed on 22/2/93
By Shri Arun Kochar
Advocate

R/to D.R.

22/2

SOUTH COMMISSIONER Smt. SUMAN SONI JABALPUR

PETITION UNDER ARTICLES 226 AND 227
OF THE CONSTITUTION OF INDIA

The petitioner, named above, most humbly and respectfully, begs to submit as under :

Received copy
22-2-93

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P.951/93 **सन्** ~~200~~

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	19-7-2005 Mrs. Renu Kochar, counsel for the petitioner. Mr. Parag Kotecha, Panel Lawyer for the State/respondents. No return has been filed on behalf of the State/respondents. Arguments heard. The petitioner by this petition under Articles 226 & 227 of the Constitution of India, has questioned the legality of order dated 26-7-1988 passed by the Additional Collector, Korba, and also order dated 10-8-1992 dismissing the revision by the Additional Commissioner, Bilaspur, and pursuant to that the recovery notice of Rs.35,028/- issued by the Tehsildar, Champa, in pursuance of order dated 26-7-1988. The case of the petitioner is that one Padmanlal sold his house and plot in question to the petitioner and his wife by a registered sale deed and they were delivered the possession thereof. The owners of the aforesaid property were originally Ex-Zamindar Mr. Rudreshwar Sharan Singh and Mrs. Upma Kuwar Devi of Champa, and they were being Zamindars having right, title and interest in the properties have transferred the same through registered sale deed to the purchasers. Therefore, the petitioner is deemed to be in possession of the said property before coming into force of the Madhya Pradesh Land Revenue Code, 1959. Further case of the petitioner is that the Land Measurement Officer, Bilaspur, submitted his report on 8-10-1987 to the Additional	

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P.951/93 सन् ~~200~~

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Collector, Korba, and the said report was prepared in a cyclo styled form by filling the blanks, the same has been accepted by the Nazul Officer, Janjgir, thereafter, approved by the Additional Collector, Korba. Based on that report, premium has been imposed to the tune of Rs.35,028/- and it has been mentioned in the report itself that the report has been prepared in the absence of the holder of the property by passing an ex-parte order.

Further case of the petitioner is that the Additional Collector, Korba, has imposed the above premium without issuance of any notice to the petitioner after receiving the report from the Nazul Officer. The petitioner was also not afforded the opportunity of hearing on the basis of the said report and without that no order could have been passed.

I have heard learned counsel for the parties.

In view of the points raised by the petitioner, the Additional Collector accepted the report of the Nazul Officer, which was prepared in cyclo styled form, without giving opportunity of hearing to the petitioner to show that though the land in question was in his possession and his predecessor entitled before coming into force of the Madhya Pradesh Land Revenue Code, 1959, and the same has been purchased through registered sale deed from the Ex-Zamindars. In the circumstances, there is nothing on record, which goes to show that any opportunity was granted to the petitioner before imposing the premium in question.

(पीछे देखिये)

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P.951/13 **सन्** ~~200~~

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Therefore, the petition deserves to be allowed and the same is allowed. The orders impugned passed by the Additional Collector and Additional Commissioner are quashed. The matter is remitted back to the Additional Collector, Korba, to pass the order in accordance with law, after holding the enquiry afresh and giving opportunity to the petitioner to prove the fact that he along with his predecessor entitled were in possession of the land in question before 1959, and the land in question is (not) the Nazul land.

Parties are entitled for certified copy of this order.

Sd/-
L.C.BHADOO
Judge

Soma

(पीछे देखिये)

26.9.05
4.8.05